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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,458	03/30/2001	Todd M. Altman	42390P10396	5718

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EXAMINER
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LIEU, JULIE BICHNGOC

ART UNIT	PAPER NUMBER
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2612

DATE MAILED: 06/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/823,458

Applicant(s)

ALTMAN ET AL.

Examiner

Julie Lieu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 April 2006.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 38-50 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 38-50 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This Office action is in response to Applicant's amendment filed April 11, 2006. Claims 23-37 have been canceled. New claims 38-50 have been added.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 103***

3. Claims 38, 40-42, and 44-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Amin et al. (US Patent No. 6,353,398) in view of Schwarzwald, Jr. (US Patent No. 6,812,860).

#### **Claim 38:**

Amin et al. discloses a system, thus, a method comprising:

- a. Receiving one or more criteria specified by a user from the portable communication device at substantially the same time of identifying the reference location (col. 4, lines 29-50);
- b. Identifying a reference location substantially at the same time of receiving the one or more price criteria; and
- c. Sending consumer information to a portable communication device wherein the consumer information is selected based at least in part on a vendor's proximity to the

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reference location and the criteria specified by the user from the portable communication device.

See abstract and summary of invention. Also col. 2, last paragraph and col. 4, lines 29-50.

Amin fails to disclose that the one or more criteria specified by the user is a price criteria. However, the concept of receiving user-specified criteria based on a price level or price range in a similar system of Amin is taught in Schwarzwald, Jr. (See col. 3, last paragraph). In light of this teaching, it would have been obvious to one skilled in the art to modify the system in Amin so that it would be capable of providing information to a user based on a user specified price criteria for a vendor goods because it would be advantageous to users who have a spending budget limit.

Claim 40:

In Amin's, one or more criteria specified by a user further includes a distance or quality for vendor goods or services. Col. 4, lines 29-50.

Claim 41:

The method of identifying the reference location in Amin comprises receiving GPS coordinates from the user's portable device. Col. 3, lines 34-46.

Claim 42:

Amin teaches a method comprising:

- a. Transmitting information from wireless communication device, the information including location information and user specified criterion pertaining to at least one of a price or a quality for a vendor goods or services (col. 4, lines 29-50); and

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b. Receiving consumer information at the wireless communication device, the consumer information relating to one or more vendor goods or services which satisfy the user specified criterion and proximate to a location associated with the location information.

See abstract and summary of invention. Also col. 2, last paragraph and col. 4, lines 29-50.

Amin fails to disclose that the one or more criteria specified by the user is a price criteria. However, the concept of receiving user-specified criteria based on a price level or price range in a similar system of Amin is taught in Schwarzwald, Jr. (See col. 3, last paragraph). In light of this teaching, it would have been obvious to one skilled in the art to modify the system in Amin so that it would be capable of providing information to a user based on a user specified price criteria for a vendor goods because it would be advantageous to users who have a spending budget limit.

Claim 44:

Though not clearly stated in Amin that the user specified criterion is stored in non-volatile memory, it would have been obvious to one skilled in the art to store this information in non-volatile memory since it is a new user's preference and should be saved as desired.

Claim 45:

The user specified criterion is entered into the wireless communication device by the user in the modify system of Amin's.

Claim 46:

Amin discloses that the user specified criterion in the modified system of includes a minimum distance to travel. Col. 4, lines 29-50. The reference fails to disclose including the price range for an amount of fuel. However, the concept of receiving user-specified criteria based on a price level or price range in a similar system of Amin is taught in Schwarzwald, Jr. (See col. 3, last paragraph). In light of this teaching, it would have been obvious to one skilled in the art to modify the system in Amin so that it would be capable of providing information to a user based on a user specified price criteria for a vendor goods because it would be advantageous to users have a spending budget limit. Consequently, the modified system of Amin's would further includes the user specified criterion of a price range for an amount of fuel.

Claim 47:

Amin discloses a wireless communication device comprising:

- a. A processor (inherent); and
- b. A memory coupled to the processor, the memory storing instructions that when executed by the processor enable the wireless communication device to transmit information including location information and specified criterion to another device and receive consumer information at the wireless communication device, wherein the received consumer information relates to one or more vendor goods or services which satisfy the user specified criterion and are proximate to a location associated with the location information.

See abstract and summary of invention. Also col. 2, last paragraph and col. 4, lines 29-50.

Amin fails to disclose that the one or more criteria specified by the user is a price criteria. However, the concept of receiving user-specified criteria based on a price level or price range in

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a similar system of Amin is taught in Schwarzwald, Jr. (See col. 3, last paragraph). In light of this teaching, it would have been obvious to one skilled in the art to modify the system in Amin so that it would be capable of providing information to a user based on a user specified price criteria for a vendor goods because it would be advantageous to users who have a spending budget limit.

Claim 48:

The wireless communication device in Amin has a display to display indicia representing the consumer information received at the wireless communication device.

Claim 49:

The Amin device comprise an input module 160 enable a user to input a user specified price criterion or location information.

Claim 50:

The device in Amin comprises one of a cell phone, a two-way radio communication system, a PCS, or a portable computer.

4. Claims 39 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Amin et al. (US Patent No. 6,353,398) in view of Schwarzwald, Jr. (US Patent No. 6,812,860) and further in view of Titmuss et al. (US Patent No. 6,397,040).

Claim 39:

Amin fails to disclose the reference location is received by location input into the portable device by the user. However, Titmuss suggest detecting the user's location by using a location updater which updates the user location based on the user input to a terminal (that is,

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user logging on the terminal). In light of this teaching, it would have been obvious to one skilled in the art to incorporate this feature in the Amin system because it would provide up to date information as desired.

Claim 43:

Amin fails to disclose that the consumer includes a name of the vendor. Nonetheless, this idea is well known as taught in Titmuss, col. 8, ll. 25-37. In view of Titmuss, a skilled artisan would have readily recognized applying this concept in the Amin system because it would be informative to the user.

*Remarks*

5. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after



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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie Lieu whose telephone number is 571-272-2978. The examiner can normally be reached on MaxiFlex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on 571-272-3068. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Julie Lieu', with a long horizontal flourish extending to the right.

Julie Lieu  
Primary Examiner  
Art Unit 2612

Jun 05, 06